

REMARKS

Claims 1-22 are pending in this application. Claims 1, 2, 6 and 8 have been amended.

Claims 1-22 are presented for reconsideration.

Claims 1-22 are rejected under 35 U.S.C. § 112, second paragraph, as indefinite. The examiner asserts the red-dyeing mixture only has 4 dyes since dyes VIIa and VIIe are the same and dyes VIIb and VIIf are the same.

It is correct that VIIa and VIIe as shown are the same and that dyes VIIb and VIIf as shown are the same. However it is not correct that the red-dyeing mixture only has only 4 dyes. Rather, it should be self-evident that 2 of the 4 formulae mentioned must contain an error.

As explained in the accompanying declaration by the first-named inventor, Bruce Griffin, the error occurred inadvertently when dyes VIIa and VIIb were used as templates to draw the structures of dyes VIIe and VIIf, wherein the CF₃ groups in VIIa and VIIb should have been replaced by CN groups but were not.

Declarant gives the correct structures of dyes VIIe and VIIf, and points out that applicants teach in the next to last paragraph of page 19 of the above-identified application:

“The individual dyes of the formulae above as well as the dye mixtures of the formulae **VIIa - VIIf**, VIII, Xa + Xb, XIV, XVIIIa + XVIIIb and XXa + XXb are all known per se and are commercially available, in most cases from Ciba Specialty Chemicals Corporation, in the form of dye preparations.”

With regard to the dye mixtures of the formulae VIIa - VIIf, declarant further notes that cited WO 02/059216 discloses on pages 3-4, in the same order as shown in the declaration, all 6 of the correct structures as “important” dyes; see formulae (4), (5), (6), (7), (8) and (9).

Declarant declares that the 6-component mixture with the structures shown in the declaration, i.e. with the correct structures of dyes VIIe and VIIf, corresponds to a product of Ciba Specialty Chemicals Corporation which has been commercially available in the form of a dye preparation since 2002. Hence, those of ordinary skill in the area of high performance disperse dyes and dyeing would not

only know that original formulae VIIe and VIIf were clearly erroneous, but would also know that the structures shown in the declaration for the dyes VIIe and VIIf were clearly intended and correct since they would know what dyes Ciba's commercial product contained.

In light of the declaration and discussion supra, applicants aver that the correction of clearly erroneous original formulae VIIe and VIIf is not new matter. Hence original formulae VIIe and VIIf have been corrected in both the disclosure and claims. Additionally, "formula II" has been corrected to "formula IV" on page 8 and in claim 1. It is self-evident that a mixture comprising "the dye of ... the formula II together with the dye of the formula II" is nonsense, and that referring to the dyes immediately preceding, i.e. "a mixture comprising the dye of the formula I and/or the dye of the formula IV together with the dye of the formula II" was intended. Hence this self-evident correction is also not new matter.

Re the objection to the black-dyeing mixture, applicants note that said black is actually formed from a trichromatic mixture comprising a yellow-dyeing mixture, "together with" a red-dyeing mixture and a blue-dyeing mixture. To make this clearer applicants have added the descriptors "yellow-dyeing mixture", "red-dyeing mixture" and "blue-dyeing mixture" to claim 1. The black-dyeing mixture thus comprises 13 dyes, not 2.

Applicants confirm the presence of an obvious typo in formula (XIIc) in the description and claim 9. Both have been corrected.

Re the objection to claim 6, applicants have added the descriptor "red-dyeing dyes or mixtures" to make it clearer that one or more of the recited red dyes or dye mixtures can be used in place of or in addition to red-dyeing mixture (B), but at least one of the dye mixtures (A), (B), (C) or (D) or any combination thereof must be present, since claim 6 depends on claim 5. Applicants aver that claim 6 is thus not unclear.

It is respectfully submitted that all the claims submitted for reconsideration are in good formal order. Reconsideration and withdrawal of the rejection of claims 1-22 under 35 U.S.C. §112, second paragraph is therefore earnestly solicited.

Claims 1-6 and 8-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pichler et al., WO 02/059216. WO discloses the correct structures of the dyes of the formulae (VIIa) – (VIIf), as

previously discussed above. Applicants do not dispute the examiner's thorough discussion of the WO's teachings. However, Pichler et al. does not teach or suggest using a mixture of dyes of formulae (VIIa) – (VIIf) **together with a mixture of dyes of the formula (VIII)**, which are dyes of a completely different chemistry than those in the mixture of dyes of the formulae VIIa - VIIf, as required for red dyeing mixture (B). Hence claimed red dyeing mixture (B) is clearly distinguished over Pichler et al.

Nevertheless, to hasten prosecution, declarant has included in his declaration comparative data showing that the dye mixture of the formula VIII, which normally gives unsatisfactorily performance when used in high performance disperse dyeings, surprisingly enhances the already good performance of the mixture of dyes of the formulae VIIa – VIIf. The dye expert found this to be very surprising and completely unexpected.

Reconsideration and withdrawal of the rejection of claims 1-6 and 8-12 under 35 U.S.C. § 103(a) as being unpatentable over Pichler et al., WO 02/059216, is respectfully solicited in light of the remarks *supra*.

Claims 1, 4-6, and 12-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Loeffler et al., U.S. Patent No. 5,484,460. Applicants concur that Loeffler et al. discloses a number of the individual dyes within the present claims. However, no individual dyes are claimed. Each of (A) – (D) comprises a mixture of dyes of radically different structure and/or even a completely different chemistry. Loeffler et al. is not seen to disclose any of the claimed mixtures (A) – (D). For example the yellow is missing applicants' dye (I).

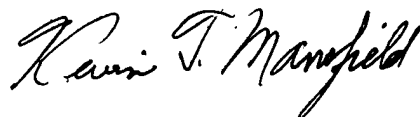
Applicants respectfully disagree that Loeffler et al. discloses their dye (IX) in col. 6, lines 54-62. Phenyl substituted by alkoxy is not phenyl substituted by hydroxyethyl. Nor does it suggest it.

Reconsideration and withdrawal of the rejection of claims 1, 4-6, and 12-22 under 35 U.S.C. § 103(a) as being unpatentable over Loeffler et al., U.S. Patent No. 5,484,460, is respectfully solicited in light of the remarks *supra*.

Since there are no other grounds of objection or rejection, passage of this application to issue with claims 1-22 is earnestly solicited.

Applicants submit that the present application is in condition for allowance. In the event that minor amendments will further prosecution, Applicants request that the examiner contact the undersigned representative.

Respectfully submitted,



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Enclosure: Declaration